

REAL ESTATE BOARD
MINUTES OF MEETING

January 24, 2008

The Real Estate Board met at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia. The following Board members were present:

R. Schaefer Oglesby, Chairman
Nathaniel Brown (arrived at 9:28 AM)
Judith L. Childress
Marjorie Clark
Carol Clarke
Florence Daniels
Scott Gaeser
Miles Leon
Byrl Taylor

DPOR staff present for all or part of the meeting included:

Jay DeBoer, Director
Saba Shami, Chief Deputy
Karen O'Neal, Deputy Director
Christine Martine, Executive Director
Bonnie Rhea Adams, Director of Complaint Analysis, & Resolution
Liz Hayes, Fair Housing Administrator
Yvette Barnes, Fair Housing Investigator
Angela Keefe-Thomas, Fair Housing Investigator
Earlyne Perkins, Legal Analyst
Victoria Traylor, Legal Analyst
Kevin Hoeft, Education Administrator
Emily Trent, Administrative Assistant

Tom Payne and Steven Jack from the Office of the Attorney General were present.

Chairman Oglesby called the meeting to order at 9:02 A.M.

Call to Order

A motion was made by Ms. Clarke and seconded by Ms. Daniels to approve the agenda. The motion passed unanimously. Members voting "Yes" were Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby, and Taylor.

Agenda

A motion was made by Ms. Clark and seconded by Ms. Daniels to adopt the following minutes: November 7, 2007, Informal Fact-Finding Conference; November 8, 2007, Real Estate Board meeting; and

Minutes

December 13, 2007, Informal Fact-Finding Conference. The motion passed unanimously. Members voting "Yes" were Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby, and Taylor.

Liz Hayes, Fair Housing Administrator, updated the Board on the current Fair Housing case load.

In the matter of **Sherron Roberts v. Lloyd Weaver, Kay Palmer Weaver, and Dominion Home Managers, Inc., REB File Number 2007-03854**, the Board reviewed the record which consisted of the Final Investigative Report and Case Analysis and Recommendation. Mr. Weaver, the respondent and his attorney, Mr. Steve Comfort, were present and addressed the Board. A motion was made by Ms. Clark and seconded by Ms. Daniels to close the case with a finding of no reasonable cause. Members voting "Yes" were Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby, and Taylor.

In the matter of **Stacy Vankinscott v. Peggy D. Todd, Liz Moore & Associates, LLC, Dewey Hutchins, Jr., Elizabeth Moore d/b/a Liz Moore, and Gail Coleman, REB File Number 2007-05241**, the Board reviewed the record which consisted of the Final Investigative Report and Case Analysis and Recommendation. Ms. Vankinscott, the complainant, and Brian Lytle, attorney for the respondents were present and addressed the Board. A motion was made by Mr. Leon and seconded by Ms. Daniels to close the case with a finding of no reasonable cause. The motion passed unanimously. Members voting "Yes" were Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby, and Taylor.

In the matter of **Shelby James v. George's Realty, Inc. and Ray Priola, REB File Number 2007-01497**, the Board reviewed the record which consisted of the Final Investigative Report, Case Analysis and Recommendation, and Official Consultation Memorandum from the Office of the Attorney General. Ms. James, the complainant, and Ray Suttle, Jr., attorney for the respondents were present and addressed the Board.

Board member Nathaniel Brown arrived at 9:28 AM.

In the matter of **William and Jill Corrente v. Deb Harrell, Francine T. Hutcheson and Hutcheson Realty, Inc., REB File Number 2006-04877**, the Board reviewed the record which consisted of the Final Investigative Report, Case Analysis and Recommendation, and Official Consultation Memorandum from the Office of the Attorney General. Deb Harrell and

Fair Housing Administrators Report

**Sherron Roberts v.
Lloyd Weaver, Kay
Palmer Weaver, and
Dominion Home
Managers, Inc., REB
File Number 2007-03854**

**Stacy Vankinscott v.
Peggy D. Todd, Liz
Moore & Associates,
LLC, Dewey Hutchins,
Jr., Elizabeth Moore
d/b/a Liz Moore, and
Gail Coleman, REB File
Number 2007-05241**

**Shelby James v.
George's Realty, Inc.
and Ray Priola, REB
File Number 2007-01497**

Arrival of Board Member

**William and Jill
Corrente v. Deb Harrell,
Francine T. Hutcheson
and Hutcheson Realty,
Inc., REB File Number**

Francine T. Hutcheson, the respondents, were present and address the Board.

2006-04877

At 9:43 A.M., Ms. Clarke offered a motion which was seconded by Ms. Daniels, that the Board be recessed and that the Real Estate Board immediately reconvene in closed meeting for the purpose of consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation as permitted by §2.2-3711.A.7 of the *Code of Virginia*. The following non-members will be in attendance to reasonably aid the consideration of the topic: Steven Jack, Tom Payne, Liz Hayes, Yvette Barnes, and Angela Keefe-Thomas.

Closed Session

This motion is made with respect to the matter(s) identified as agenda item(s):

Fair Housing Case 3 REB File Number 2007-01497, Shelby James v. George's Realty, Inc. and Ray Priola; and

Fair Housing Case 4 REB File Number 2006-04877, William and Jill Corrente v. Deb Harrell, Francine T. Hutcheson and Hutcheson Realty, Inc.

At 10:15 A.M., a motion was made by Ms. Clark and seconded by Ms. Clarke that the Board reconvene in open session.

WHEREAS, the Real Estate Board has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

Certification

WHEREAS, §2.2-3712 of the *Code of Virginia* requires a certification by this Real Estate Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Real Estate Board hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirement by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Real Estate Board.

VOTE: 9-0

AYES: Brown, Gaeser, Clark, Oglesby, Taylor, Clarke, Daniels, Leon,

Childress.

NAYS: None

ABSENT FROM THE VOTE: None

ABSENT DURING THE MEETING: None

The Board recessed from 10:15AM to 10:25AM

In the matter of **Shelby James v. George's Realty, Inc. and Ray Priola, REB File Number 2007-01497**, a motion was made by Ms. Daniels and seconded by Ms. Clark to find reasonable cause against the respondents for discrimination in the terms and conditions based on sex and to delay for thirty days issuing the charge in order to pursue conciliation. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby, and Taylor.

In the matter of **William and Jill Corrente v. Deb Harrell, Francine T. Hutcheson and Hutcheson Realty, Inc., REB File Number 2006-04877**, a motion was made by Ms. Clark and seconded by Ms. Clarke to close the case with a finding of no reasonable cause. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby, and Taylor.

In the matter of **Jaider Pineda and Isael Pineda v. Freddie Hughes and Woodlake Investment, Inc. t/a Stars and Stripes Realty, REB File Number 2005-01854**, A motion was made by Ms. Clark and seconded by Ms. Clarke to approve the terms of the settlement agreement as agreed to by the parties. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby, and Taylor.

A motion was made by Ms. Clarke and seconded by Ms. Daniels to approve the Fair Housing Sub-Committee minutes of November 8, 2007. The motion passed unanimously. Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby, and Taylor.

There was no public comment.

Jay DeBoer introduced the new Chief Deputy, Saba Shami to the members of the board.

In the matter of **File Number 2008-01839, Eric Gilliard**, the Board

Break

Shelby James v. George's Realty, Inc. and Ray Priola, REB File Number 2007-01497

William and Jill Corrente v. Deb Harrell, Francine T. Hutcheson and Hutcheson Realty, Inc., REB File Number 2006-04877

Settlement Agreement

Fair Housing Minutes

Public Comment

Other

File Number 2008-01839,

reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Mr. Gilliard, the applicant, was present and addressed the Board. A motion was made by Ms. Daniels and seconded by Mr. Gaeser to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and approve Mr. Gilliard's application for a real estate salesperson's license with the following amendment due to the serious nature and recentness of the convictions: Mr. Gilliard's license is subject to an agreement for licensure for a period of two years wherein Mr. Gilliard and his broker will provide quarterly reports to the Board. The motion passed by majority vote. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, and Oglesby. Member voting "No" was Taylor.

Eric Gilliard

In the matter of **File Number 2008-01188, Sara Harper**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Ms. Harper, the applicant, was present and addressed the Board. A motion was made by Ms. Daniels and seconded by Mr. Leon to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and approve Ms. Harper's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby, and Taylor.

File Number 2008-01188,
Sara Harper

In the matter of **File Number 2008-01287, Karen Robinson**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Ms. Robinson, the applicant, was present and addressed the Board. A motion was made by Ms. Clark and seconded by Ms. Daniels to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and approve Ms. Robinson's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, and Taylor.

File Number 2008-01287,
Karen Robinson

Mr. Oglesby turned the position of Chair over to Ms. Taylor and recused himself from the meeting.

Transfer of Chair

In the matter of **File Number 2008-01777, Kelly Ainsworth**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding Board Member. Ms. Ainsworth, the applicant, was present and addressed the Board. A motion was made by Ms. Clarke and seconded by Mr. Gaeser to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and approve Ms.

File Number 2008-01777,
Kelly Ainsworth

Ainsworth's application for a real estate broker's license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon and Taylor.

As the presiding Board member, Mr. Oglesby did not participate in the discussion or vote pertaining to this matter.

In the matter of **File Number 2008-01163, Donna Procise**, the Board reviewed the Consent Order as seen and agreed to by Ms. Procise. A motion was made by Ms. Clark and seconded by Mr. Leon to accept the proposed Consent Order wherein Ms. Procise admits to a violation of 18 VAC 135-20-290.2 (Count 1) of the Board's 2003 Regulations, find a violation of 18 VAC 135-20-290.3 (Count 2) of the Board's 2003 Regulations, and agrees to a monetary penalty of \$500.00 for the violation contained in Count 1, \$100.00 for the violation contained in Count 2, as well as \$150.00 in Board costs for a total of \$750.00. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, and Taylor.

File Number 2008-01163,
Donna Procise

As the Board member who reviewed the file, Mr. Oglesby did not participate in the discussion or vote pertaining to this matter.

In the matter of **File Number 2008-00084, Virginia Real Estate Transaction Recovery Act Claim of Karen J. Pratt (Claimant) and Modcon Realty (Regulant)**, the Board reviewed the record, which consisted of the Claim Review, file, transcript, exhibits from the IFF, and the presiding Board Member's summary. A motion was made by Mr. Leon and seconded by Ms. Clark to pay the claim in the amount of \$3,895.00. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, and Taylor.

File Number 2008-00084,
Karen J. Pratt and
Modcon Realty

As the presiding Board Member, Mr. Oglesby did not participate in the discussion or vote pertaining to this matter.

Mr. Oglesby returned and assumed the position of Chair.

Transfer of Chair

In the matter of **File Number 2008-02212, James Carney, III**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Mr. Carney, the applicant, was present and addressed the Board. A motion was made by Ms. Clarke and seconded by Ms. Daniels to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and approve Mr. Carney's application for a real estate salesperson's license. The motion

File Number 2008-02212,
James Carney, III

passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby and Taylor.

In the matter of **File Number 2007-02486, Dillard C. Laughlin, Jr.**, the Board reviewed the Consent Order as seen and agreed to by Mr. Laughlin. A motion was made by Ms. Clarke and seconded by Ms. Clark to accept the proposed Consent Order wherein Mr. Laughlin admits to a violation of §54.1-2131.A.4 of the *Code of Virginia* (Count 1) and agrees to a monetary penalty of \$250.00 for the violation contained in Count 1, as well as \$150.00 in Board costs for a total of \$400.00. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby, and Taylor.

File Number 2007-02486,
Dillard C. Laughlin, Jr.

In the matter of **File Number 2007-03509, James L. Forester, Jr.**, the Board reviewed the Consent Order as seen and agreed to by Mr. Forester. A motion was made by Ms. Daniels and seconded by Ms. Taylor to accept the proposed Consent Order wherein Mr. Forester admits to a violation of 18 VAC 135-20-260.1 (Count 1) of the Board's 2003 Regulations, find a violation of 18 VAC 135-20-260.5 (Count 2) of the Board's 2003 Regulations, find a violation of 18 VAC 135-20-260.6 (Count 3) of the Board's 2003 Regulations, and agrees to a monetary penalty of \$1,000.00 for the violation contained in Count 1, no monetary penalty for the violation contained in Count 2, \$1,000.00 for the violation contained in Count 3 as well as \$150.00 in Board costs for a total of \$2,150.00. In addition, for violations of Count 1 through 3, Forester agrees to a six (6) month suspension of his license beginning on the effective date of the Consent Order. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Oglesby, and Taylor.

File Number 2007-03509,
James L. Forester, Jr.

As the Board Member who reviewed the file, Mr. Leon did not participate in the discussion or vote pertaining to this matter.

In the matter of **File Number 2007-05240, David S. Tamaren**, the Board reviewed the Consent Order as seen and agreed to by Mr. Tamaren. A motion was made by Ms. Daniels and seconded by Ms. Clark to accept the proposed Consent Order wherein Mr. Tamaren admits to a violation of 18 VAC 135-20-260.5 (Count 1) of the Board's 2003 Regulations, find a violation of 18 VAC 135-20-260.6 (Count 2) of the Board's 2003 Regulations, and agrees to \$150.00 in Board costs for a total of \$150.00. In addition, for violation of Counts 1 and 2, Mr. Tamaren agrees to revocation of his license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby.

File Number 2007-05240,
David S. Tamaren

As the Board Member who reviewed the file, Ms. Taylor did not participate in the discussion or vote pertaining to this matter.

In the matter of **File Number 2007-02616, Steven E. Richter**, the Board reviewed the Consent Order as seen and agreed to by Mr. Richter. A motion was made by Mr. Leon and seconded by Ms. Clarke to accept the proposed Consent Order wherein Mr. Richter admits to a violation of 18 VAC 135-20-290.2 (Count 1) of the Board's 2003 Regulations, find a violation of §54.1-2131.A.4 (Count 2) of the *Code of Virginia*, and agrees to a monetary penalty of \$300.00 for the violation contained in Count 1, \$500.00 for the violation contained in Count 2, as well as \$150.00 in Board costs for a total of \$950.00. In addition, for violation of Count 1 and 2, Richter agrees to complete four (4) hours of continuing education pertaining to contracts and four (4) hours of continuing education pertaining to property management and/or other equivalent courses approved by the Board and provide proof of attendance and successful completion to the Board within six (6) months of the effective date of the Order. It is acknowledged that satisfactory completion of the above-referenced continuing education hours will not count toward any continuing education requirement, if applicable, for renewal of license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby, and Taylor.

File Number 2007-02616,
Steven E. Richter

In the matter of **File Number 2007-02675, Robert Koger**, the Board reviewed the Consent Order as seen and agreed to by Mr. Koger. A motion was made by Mr. Leon and seconded by Ms. Clarke to accept the proposed Consent Order wherein Mr. Koger neither admits nor denies the violation of §54.1-2135.A.5 of the *Code of Virginia* (Count 1), 18 VAC 135-20-185.B (Count 2), of the Board's 2003 Regulations, and 18 VAC 135-20-180.C.3 (Count 3) of the Board's 2003 Regulations. In addition, Mr. Koger agrees to voluntarily surrender his real estate broker license. The Consent Order will be effective upon the approval of the Bankruptcy Court. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Daniels, Leon, Oglesby, and Taylor.

File Number 2007-02675,
Robert Koger

As the Board member who reviewed the file, Mr. Gaeser did not participate in the discussion or vote related to this matter.

Mr. Oglesby and Ms. Taylor turned the position of Chair over to Mr. Leon and recused themselves from the meeting.

Transfer of Chair

In the matter of **File Number 2008-00151, Curtis Seltzer**, the Board reviewed and considered the settlement offer of the Cease and Desist Order issued by the Board from Mr. Seltzer's legal representative. After

File Number 2008-00151,
Curtis Seltzer

discussion, a motion was made by Ms. Daniels and seconded by Mr. Gaeser to reject the offer from Mr. Seltzer and proceed to the Informal Fact-Finding Conference. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, and Leon.

Due to possible conflict of interest Mr. Oglesby and Ms. Taylor did not participate in the discussion or vote in this matter.

Mr. Oglesby returned and assumed the position of Chair.

Ms. Martine informed the Board that the Governor's Office approved the Real Estate Regulations which are scheduled to become effective April 1, 2008. No action was taken by the Board.

Ms. Martine updated the Board on Legislation introduced for the 2008 Legislative session. No action was taken by the Board.

Ms. Childress gave the Education Committee Report. A motion was made by Ms. Daniels and seconded by Mr. Gaeser to accept the January 23, 2008, Education Committee Report. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby, and Taylor.

A motion was made by Mr. Gaeser and seconded by Ms. Childress to request the Board's education staff to inform all Board approved education providers that beginning with the January 2009 Education Committee meeting the Board will accept only PDF submissions of education applications. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby, and Taylor.

The Board reviewed the implementation plan presented by staff on criminal background checks being done on all initial applicants for licensure. After discussion of the options presented, a motion was made by Ms. Clarke and seconded by Mr. Gaeser to pursue a Request for Proposal (RFP) for a third party vendor. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby, and Taylor.

Mr. DeBoer opened the floor for nominations for the position of Chair of the Real Estate Board. Florence Daniels nominated Carol Clarke and Byrl Taylor nominated R. Schaefer Oglesby for the position. A motion was made by Ms. Childress and seconded by Mr. Gaeser to close the nominations. The motion passed unanimously. Members voting "Yes"

Transfer of Chair

Administrative Issues

Legislation Update

Education Committee Report

Old Business

Other Business

Election of Officers

were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Leon, Oglesby, and Taylor.

Members voting for Ms. Clarke were Brown, Clark, Clarke, Daniels and Gaeser. By majority vote, Ms. Clarke succeeds to the position of Chair.

Byrl Taylor was nominated for Vice Chair by Mr. Oglesby. With no other nominations, Ms. Taylor remains Vice Chair by acclamation.

Director Jay DeBoer announced to the Board the retirement of Karen O'Neal, Deputy Director for Licensing and Regulation and thanked her for her valuable years of service.

Other

There being no further business, the Board adjourned at 12:49 PM.

Adjourn

Carol Clarke, Chair

Jay DeBoer, Secretary